

Flygtningenævnets baggrundsmateriale

Bilagsnr.:	1409
Land:	Afghanistan
Kilde:	Human Rights Council
Titel:	Situation of human rights in Afghanistan – Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennet
Udgivet:	9. februar 2023
Optaget på baggrundsmaterialet:	25. april 2023

Advance Edited Version

Distr.: General
9 February 2023

Original: English

Human Rights Council

Fifty-second session

27 February–31 March 2023

Agenda item 2

**Annual report of the United Nations High Commissioner
for Human Rights and reports of the Office of the High
Commissioner and the Secretary-General**

Situation of human rights in Afghanistan

Report of the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett*

Summary

The present report, submitted by the Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett, builds on his previous report^a and covers developments from July to December 2022.

* The present report was submitted after the deadline so as to include the most recent information and comments of the de facto authorities.

^a [A/HRC/51/6](#).

I. Introduction

1. The present report is submitted pursuant to Human Rights Council resolution 51/20.
2. The Special Rapporteur on the situation of human rights in Afghanistan, Richard Bennett, undertook his second mission to Afghanistan from 8 to 20 October 2022. In the course of the mission, he met with numerous stakeholders, including human rights defenders, legal professionals, women's groups, victims of human rights violations, journalists, women from the business community, teachers, religious scholars and representatives of minority groups, the United Nations, non-governmental organizations (NGOs) and the diplomatic community. In addition to visiting the capital, Kabul, the Special Rapporteur visited Bamyan and Panjshir Provinces, as well as hospitals, detention facilities and cultural heritage sites.
3. The Special Rapporteur expresses his appreciation to the de facto authorities for their cooperation. He was received by senior de facto officials, including an acting Deputy Prime Minister, Minister and Deputy Minister for Foreign Affairs and Minister of Justice.
4. The Special Rapporteur also extends his appreciation to the representatives of the United Nations working in Afghanistan for the support provided to him and for the organization of conversations with officials, including the Special Representative of the Secretary-General for Afghanistan and Head of the United Nations Assistance Mission in Afghanistan and her staff.
5. The report is based on observations and information received during the course of the mission, consultations before and after the mission with Afghan human rights defenders, civil society organizations and other stakeholders and reports published by reliable sources, including United Nations agencies, think tanks, academics and NGOs. The Special Rapporteur has taken steps to verify the information received.
6. Following the initial report of the Special Rapporteur, which was submitted to the Human Rights Council at its fifty-first session,¹ and in the light of serious concerns about the human rights situation in Afghanistan described therein, on 7 October 2022, the Council, by its resolution 51/20, renewed the mandate of the Special Rapporteur for another year and decided to include in his mandate a child's rights perspective and the responsibility to document and preserve information relating to human rights violations and abuses.

II. Context

7. Since the presentation of the initial report of the Special Rapporteur, the human rights crisis in Afghanistan has worsened. The systematic violation of the human rights of women and girls has deepened even further, and fundamental freedoms, including the rights of peaceful assembly and association, expression and the rights to life and protection against ill-treatment have increasingly been flouted. The authorities have instituted *hudud*² and *qisas*³ punishments, measures indicative of a revival of the policies of the 1990s. The Special Rapporteur is deeply concerned that, increasingly, the Taliban is ruling Afghanistan through fear and repressive policies aimed at suppressing communities, and women in particular. Inclusiveness is negligible; there is very little tolerance for difference, and none for dissent.
8. In mid-November 2022, the authorities banned access of women and girls to parks, gyms and public baths and, on 21 December, they announced the immediate suspension of women from universities. Three days later, on 24 December, women were barred from working for domestic and international NGOs, with a consequent severe negative impact on

¹ [A/HRC/51/6](#).

² Hudud crimes are claims against God, punishable by mandatory punishments, including the death penalty, stoning and lashing. The hudud offences are: *zina* (adultery and fornication), *riddah* (apostasy), *hirabah* (waging war against God and society), *sariqa* (theft), *shurb al-khamr* (drinking alcohol) and *qadhif* (slander/defamation).

³ *Qisas* (retribution in kind) follows the principle of "an eye for an eye" and covers murder or serious cases of intentional bodily harm.

the life-saving humanitarian services they provide, which are critical for humanitarian protection and other human rights and development activities. Measures have been taken to erase women from all public spaces. The cumulative effect of the Taliban's systematic discrimination against women raises concerns about the commission of international crimes.

9. Afghanistan continues to grapple with a serious economic and humanitarian crisis affecting almost the entire population. This crisis has been exacerbated by the unintended consequences of political cautiousness and overcompliance with sanctions, despite the humanitarian exemptions afforded by the Security Council.

10. Durable peace and reconciliation require an inclusive administration, represented by all political, religious and ethnic groups. Predominantly, the de facto cabinet continues to consist of Pashtuns and the reshuffling of officials by the Supreme Leader of the Taliban at the provincial level has become more regular and systematic, an indication of the progressive shift in decision-making from Kabul to Kandahar. The religious council in Kandahar has become pre-eminent, with the power to override decisions of the cabinet in Kabul. During 2022, the council is increasingly tilted in an ideologically conservative direction, with a corresponding impact on the enjoyment of human rights.

11. The 2004 Constitution remains suspended, and the authorities say that they are currently drafting a new constitution based on sharia law. Both houses of parliament have been abolished, as has the Electoral Commission, the Human Rights Commission and the Ministry of Women's Affairs. The judiciary has been replaced. The media is muzzled. In sum, checks and balances on power are severely compromised.

12. Schools, places of worship and other civilian locations have continued to come under attack, causing severe harm to civilians, including children. The Taliban's response to armed resistance by the National Resistance Front in Panjshir Province and other provinces continues to adversely impact civilians in breach of international human rights and humanitarian laws. While both parties have committed violations, civilians have been most affected by the Taliban response.

13. There are a few encouraging developments. Senior de facto officials held substantive discussions with the Special Rapporteur, who continued to meet with representatives of the reinstated Human Rights and Women's International Affairs Department within the Ministry of Foreign Affairs. An interministerial technical and coordination committee, tasked to address recommendations made by United Nations human rights mechanisms, has been established. Discussions have begun on implementing some recommendations made by the Special Rapporteur in his initial report. The United Nations Assistance Mission in Afghanistan (UNAMA) has continued to provide technical advice and awareness-raising sessions to the Office of Prison Administration. The Special Rapporteur was informed of encouraging cooperation with regard to cultural heritage institutions.

III. Situation of human rights in Afghanistan

A. Women and girls

14. The recent edicts banning women and girls from all education beyond the primary level, access to parks, gyms and public baths and working for NGOs deepen existing flagrant violations of women's human rights, already among the most draconian in the world. The discriminatory denial of women and girls' fundamental human rights may amount to gender persecution, a crime against humanity. The violations of the rights of women and girls, in their totality, are increasing their risk of exposure to violence and abuse and have serious physical and mental health implications. In addition, such violations have negative effects on the economy and the delivery of vital humanitarian services. The situation of the human rights of women and in Afghanistan will be further elaborated in a thematic report to the Human Rights Council at its fifty-third session.

1. Discrimination against women and girls

15. The de facto authorities continue to flagrantly contravene the Convention on the Elimination of All Forms of Discrimination against Women, to which Afghanistan is a State party. Instead of taking steps to eliminate discrimination against women, the authorities are normalizing it. Women in Afghanistan told the Special Rapporteur that “day by day the situation is getting worse, we do not feel safe, and we feel targeted”. Despite this situation, women told the Special Rapporteur that they continue to resist violations of their human rights: “we know that what has happened to us is not right. Some of us could have left the country but we did not, we decided to stay and fight for women’s place in Afghan society.”

16. The Special Rapporteur heard from Taliban officials that efforts are under way to reopen secondary schools to girls, although the subsequent shutting of universities to women contradicts this assertion. On 22 December, the acting Minister of Higher Education outlined four reasons for the closure, each of which is considered to give rise to immorality and indecency: female students’ presence in dormitories; travel from the provinces without a *mahram*; lack of observation of the wearing of the hijab; and the existence of mixed classes. Prior to the banning women from tertiary education, they had been instructed to attend only public universities near their homes and were not permitted to study law, commerce, journalism, engineering, agriculture and veterinary medicine.⁴

17. While Taliban officials claim that closures are temporary, blaming logistical rather than ideological obstacles, in reality more and more doors are closing for women, mirroring the pattern of excuses and the practical denial of rights witnessed in the 1990s. In their response to the present report, the de facto authorities indicated that they were not against women’s work but, based on the belief that providing for the family is the obligation of men, priority has therefore been given to work opportunities for them, while work opportunities are provided for women “if/when required”. This contradicts Afghanistan’s commitments under numerous human rights instruments, including the Convention on the Elimination of All Forms of Discrimination against Women.

18. Women continue to face restrictions in their movement, attire, employment options, ability to seek public office or perform public roles and access to public spaces. On 22 August, the de facto Ministry for the Propagation of Virtue and the Prevention of Vice announced the establishment of a female moral police department to “guide” women.⁵ Women who met the Special Rapporteur told him that in public places, including in schools, personnel of the de facto Ministry inspect the clothing of women and girls underneath their burqas. In November, women who secured scholarships abroad were reportedly blocked from leaving the country unaccompanied by a man.

19. Women remain excluded from holding public office and other positions of leadership. Their employment options are extremely limited, and many women told the Special Rapporteur that being unable to work means that they could no longer support themselves or their families. Female-headed NGOs already face significant difficulties in re-registering their organizations, with their only option being to employ a male executive director to continue operating. Since December 2022, women cannot attend their workplaces. Although there is no specific restriction on women working in the private sector, discriminatory policies, including the requirement that women outside the home be accompanied by a close male relative (*mahram*), have created significant obstacles. Despite this, women entrepreneurs have developed innovative ways to maintain their businesses through, for example, operating online stores.

20. In addition, the policy of punishing men for the actions and attire of women and girls continues. In some cases, men accompanying women wearing colourful clothing or without a face covering have been beaten by Taliban officials, including in cases when they cannot prove their relationship. The Special Rapporteur is concerned that the policy is intended to compel men and boys to control the behaviour, attire and movement of women and girls, thus

⁴ See <https://www.bbc.com/news/world-asia-63219895>.

⁵ See <https://nimrokhmedia.com/en/2022/08/23/the-taliban-establishes-female-moral-police-department>.

pitting men against women, normalizing discrimination and violence against women and girls and taking away their agency.

2. Violence against women and girls

21. The Special Rapporteur notes with profound concern the rise in sexual and gender-based violence against women and girls that is occurring with impunity and with minimal support for victims. Human rights defenders, who peacefully protest the increased restrictions on women and girls, are at heightened risk and have been increasingly beaten and arrested. The intention is clearly not only to punish them for protesting, but also to deter others from protesting.

22. The Special Rapporteur is deeply concerned by reports of young women found dead, with indications of having been sexually violated. During his recent visit, the Special Rapporteur heard of a young girl who had been taken in broad daylight by authorities without any explanation, raped, then returned to her family. The girl later committed suicide, presumably owing to the stigma attached to women and girls who have been sexually violated.

23. Since the Taliban came to power, the unnatural deaths of over 280 women and children have been reported in the media, at least 75 of which were reportedly intentional killings, 130 were conflict-related or suicide-explosion-related and more than 20 domestic violence-related – in 60 cases the cause was not reported. It is anticipated that the actual number of women and children killed is higher as many cases are not reported.

3. Dire consequences

24. The restrictions on women and girls, compounded by the economic and humanitarian crisis, have resulted in negative coping mechanisms, including forced and child marriages. Reports of depression and suicide are widespread, especially among adolescent girls prevented from pursuing education. Clearly the mental health consequences of the Taliban regime are dire, especially for women and children, but also for men, a number of whom approached the Special Rapporteur in distress due to feelings of hopelessness. Further study on the consequences and action to address mental health are needed.

B. Impact of economic crisis on the enjoyment of economic, social and cultural rights

25. The Special Rapporteur expresses grave concern about the serious impact of the ongoing economic crisis on the enjoyment of economic, social and cultural rights. The gross domestic product of Afghanistan decreased by 20 per cent in 2020–2021 following the coronavirus disease (COVID-19) pandemic and ongoing drought. The economy experienced a further dramatic decline of around 30–35 per cent in 2021–2022. Contributing factors include: shrinking economic activity in the private sector; the liquidity crisis owing to the collapse of the Afghan banking system following its severance from the international banking system; the freezing of \$9 billion in Afghan foreign reserves in the United States of America and countries in Europe; the suspension of international assistance; massive layoffs in the public sector; and sharply increased prices, particularly for food items. The economic crisis has resulted in widespread extreme poverty and acute food insecurity, which undermined the public health system and impacted the right to work.

26. While welcoming the facilitation by the United States of transactions by Da Afghanistan Bank, the central bank of Afghanistan, to pay for new banknotes and the humanitarian exemption for sanctions contained in Security Council resolution 2615 (2021), the Special Rapporteur remains concerned about adverse impacts of measures taken by the international community, such as blocking the central bank from the international banking system, on the human rights and basic needs of the Afghan people. Largely due to risk averseness on the part of foreign banks, the humanitarian exemption has reportedly been ineffective in mitigating the adverse impact of such measures. Businesses and international organizations informed the Special Rapporteur about difficulties in conducting their legitimate activities in the absence of clear guidance on the humanitarian exemption and to its rigid framework. The Special Rapporteur is also disturbed that the de facto authorities

have not taken all necessary measures to address the dire situation, including meeting fundamental human rights standards, such as reopening girls' secondary schools and universities.

27. The Special Rapporteur notes the efforts made by the de facto authorities to increase revenue collection, which reached 144 billion afghanis between December 2021 and October 2022, exceeding the amount of revenue collected over the same period in the previous two years. Increased revenues come largely from border taxes, coal mining royalties and taxes on opium sales, while with the current narrow income-tax base, exacerbated by massive job losses, business closures and the reluctance of foreign investors to engage in the economy because of a lack of the rule of law and overall security concerns, there is limited scope to significantly increase tax revenues. In addition, the national budget for the 1401 fiscal year (July 2022/June 2023) (231.4 billion afghanis) is only half the average of budgets for the previous five years, with only 12 per cent allotted for development, about one fifth of the average over the past five years. Without international assistance and cooperation, the de facto authorities will not mobilize sufficient resources to ensure that the Afghan people enjoy economic, social and cultural rights at the minimum base level. Moreover, the United Nations has stressed that this cannot be achieved without female aid workers.

28. About 700,000 people have lost their jobs since August 2021, with the agriculture, civil service and construction sectors the most severely affected. Although the recent report of the World Bank records a slight improvement in labour force participation and employment, the Special Rapporteur notes that this corresponds proportionately to the increase in the number of children dropping out of school and joining the labour force. Furthermore, increased employment is mostly in the form of casual work and self-employment, which fails to guarantee workers an adequate standard of living.

29. The majority of the Afghan people have been deprived of their rights to adequate food and an adequate standard of living. Around two thirds of households report difficulties in meeting basic food and non-food needs. An estimated 18.9 million people are experiencing acute food insecurity, a number which is expected to rise to 20 million, and over 90 per cent of Afghans are suffering from some form of food insecurity, with single-parent female-headed households and children being disproportionately affected.

30. Access to primary health care and the financing of health systems have long been critical issues. Afghans have relied more on private health-care services due to insufficient medical staff, medicine and medical equipment in the public sector. Since the Taliban takeover, access to health-care services has further deteriorated. In the wake of a collapsing health-care system, the United Nations and international humanitarian organizations are providing support to sustain large sectors of health-care delivery. Despite recent improvements in access to health-care services through such support, the overall right to health – availability, accessibility and quality – remains beyond the reach of many Afghan people. Female health-care providers are in short supply and are severely hampered by the policies of the de facto authorities, including checks by officials of the Ministry for the Propagation of Virtue and the Prevention of Vice at medical facilities to ensure that male doctors are not treating women, which affect the provision of health services for women and children.

31. The Special Rapporteur is gravely concerned that humanitarian workers are working in precarious circumstances and that local authorities routinely interfere and restrict their operations, contrary to humanitarian principles, hampering the delivery of life-saving support. This situation has been seriously exacerbated by the barring of women from working for NGOs. He is also concerned about the large unmet portion of humanitarian funding required. Independent monitoring and reporting on service delivery is critical in order to ensure that aid will be delivered to those most in need and on an equitable basis.

C. Situation of human rights of minority groups

32. Despite some progress over the last two decades, minorities in Afghanistan have never enjoyed full protection of their human rights, and this is the case with religious minorities in particular. Discriminatory provisions in the legal framework and inadequate recognition of

group rights have led to the further marginalization of religious minorities, particularly impacting their right to participate in public and political affairs.⁶

Historical context

33. Historically, ethnic and religious minorities in Afghanistan have experienced marginalization and violence, with no acknowledgement or accountability for their suffering. The Hazara, a majority Shia people, have endured the most violence and prejudice of any ethnic group in Afghanistan. Rival factions that fought during the occupation by the forces of the former Soviet Union and militias ushered in a civil war along ethnic and religious lines for control of territory. This included all factions – collectively referred to as the mujahidin – belonging to Pashtun, Tajik, Hazara and Uzbek ethnic groups and to both the Shia and Sunni sects of Islam. In February 1993, forces of Ahmad Shah Masoud (predominantly Tajik Sunni) and the Ittehad-e-Islami alliance (predominantly Pashtun Sunni) slaughtered hundreds of Hazara people in the Afshar neighbourhood in western Kabul. Similarly, heavy fighting between the Wahdat party (predominantly Hazara Shia) and forces of the Ittehad-e-Islami alliance in the west of Kabul caused heavy casualties and widespread destruction of civilian homes.⁷ Militias from all ethnic groups, including Tajik, Hazara, Pashtun and Uzbek, targeted women and girls from rival ethnic factions, committing gang rape at gunpoint and other sexual and gender-based crimes across Afghanistan.⁸

34. It must be stressed that all communities suffered during the conflict. Lands and properties of Hindu and Sikh communities were among the first to be grabbed by the mujahidin warlords in the 1990s. Their population shrank from approximately 220,000 in the 1980s to 15,000 in the 1990s and the size of those communities has fallen to under 100 since the takeover of the Taliban in August 2021.⁹ These and other minorities in Afghanistan have endured historical suffering that has evolved into a form of structural injustice that needs to be addressed, including through transitional justice processes.

35. In his first report, the Special Rapporteur highlighted serious concerns about the plight of minorities. Since then, he has documented further violations of minority rights during his second country visit and in testimonies and reports he received directly from a range of communities. The following issues are specifically noted as constituting alarming trends with regard to minorities in Afghanistan.

1. Violence and threat against ethnic and religious minorities

36. The Special Rapporteur is deeply concerned about continued threats and attacks, both physical and verbal, against religious minorities, including the Hazara Shia and other Shia Muslims, and against Sikh and Sufi groups. From 30 August 2021 to 30 September 2022, in 22 recorded attacks against civilians, at least 334 were killed and 631 injured. Of that number, 16 attacks, including three against educational facilities, targeted the Hazara population specifically. On 30 September 2022, an attack against the Kaaj Educational Centre in the Dasht-e-Barchi area of Kabul claimed the lives of 54 individuals and injured another 114. Most of the victims, 51 out of the 54 killed, were young women and girls between the ages of 14 and 22 who were studying for the university entrance examination.

37. In October, the Special Rapporteur met with the victims and families of victims of the attack on the Kaaj Centre, who informed him that de facto security officials had mistreated and used derogatory language against the families of victims of the attack. Moreover, it was reported that it took one hour for ambulances to arrive and families were not allowed to see their children at the scene. Some family members were physically assaulted and humiliated by the de facto authorities, while being denied access to hospitals to find their loved ones, donate blood, transport the victims to the hospital or retrieve the remains of the deceased. Journalists were prevented from covering the incident at the site and from visiting the hospitals. Similarly, the family members of the victims were told by Taliban authorities not to talk to the media. Moreover, the Special Rapporteur received reports from numerous

⁶ See <https://minorityrights.org/publications/sac-report-2016/>.

⁷ See <https://www.hrw.org/reports/2005/afghanistan0605/4.htm>.

⁸ See https://www.jstor.org/stable/42909150?seq=6#metadata_info_tab_contents.

⁹ See <https://tolonews.com/afghanistan/nearly-99-hindus-sikhs-left-afghanistan-last-three-decades>.

sources reporting that the Taliban expelled 30 Hazara women from Kabul University who were among 60 Hazara women who intended to stage a protest about the attack.

38. In the past, the Islamic State in Iraq and the Levant-Khorasan (ISIL-K) has claimed responsibility for similar attacks,¹⁰ however, to date, no one has claimed responsibility for the attack and there is no information about an investigation by the de facto authorities. Despite this, on 22 October 2022, the de facto authorities announced they had identified and put to death six people suspected of being members of ISIL-K and of being responsible for numerous terrorist attacks, including the attack on the Kaaj Educational Centre.

39. As noted in his previous report, this type of attack seems to be widespread and systematic and bears the hallmarks of international crimes. The Special Rapporteur learned during his visit in October that on numerous occasions Hazara elders, representatives and civil society activists have requested protection from the de facto authorities, including protection of educational centres, but the authorities have not responded cooperatively. Educational centres were issued licences for weapons during the previous administration to protect themselves, but the de facto authorities have since collected those weapons without providing alternative means of security. The Special Rapporteur acknowledges the counter-terrorism efforts by the de facto authorities against ISIL-K, which indicate that they have the capacity to undertake intelligence and investigative work and should be capable of bringing those they believe responsible to justice through the holding of trials that meet international standards.

40. On 25 November, reports emerged from the Nili district of Daikundi Province, confirmed by the United Nations Children's Fund, about the extrajudicial killings, allegedly by Taliban forces, of at least eight Hazara civilians, including four boys between the ages of 1 and 14. Six relatives of the victims are still reported to be in the custody of the de facto authorities under worrying conditions. In addition, signs of torture and lethal force were visible on the bodies of the deceased. The spokesperson for the de facto Ministry of Internal Affairs stated that those killed were armed rebels and denied the killing of children. On 8 December, 21 residents of the Ishtarlay district, Daikundi Province, were arrested, detained and tortured because their relatives had served under the previous regime and they possessed weapons. To secure their release, relatives, who were not in possession of any weapons, were forced to buy weapons at a cost of up to \$1,000 to give to the Taliban.

41. The situation of other religious minorities is also concerning. Sikhs, Hindus, Christians, Ahmadiyya and Ismailia (a Shia denomination) are among the religious minorities who have expressed alarm about their safety. Some Christians and Ahmadiyya have reported Taliban threats and imprisonment, while some Sikhs have reported Taliban harassment at their place of assembly (*gurdwara*) in Kabul.¹¹ The Special Rapporteur has received reports that the de facto Ministry of Education has declared the Ismailia apostates. Many members of the Sikh, Ismailia and other religious minorities have fled in recent months as a result of threats and harassment. On 25 September 2022, it was reported that a group of 55 Hindu and Sikh Afghans had left for India.

2. Marginalization of minorities in decision-making processes

42. The Special Rapporteur remains extremely concerned about the marginalization of minorities in decision-making processes and their low representation in public positions. As noted, while such marginalization in the sociopolitical arena is not new, the situation has worsened since August 2021. Over the past two decades, locals tended to work in provincial administrations in rough proportion to their presence in an area's ethnic make-up. However, since the Taliban return to power, the ethnic composition of governance structures has been reconfigured, including at the provincial and district levels. In Bamyan, Daikundi and Ghor Provinces, the Taliban has replaced a number of former government employees at the Departments of Justice, Agriculture and Irrigation, Mines and Petroleum and Education, including at Bamyan University and in the municipalities, almost certainly due to their ethnic

¹⁰ See <https://www.hrw.org/news/2022/09/06/afghanistan-isis-group-targets-religious-minorities>.

¹¹ See <https://www.sigar.mil/pdf/quarterlyreports/2022-07-30qr-section3-security.pdf#page=18>.

affiliation.¹² A similar trend has been reported in Balkh and other northern provinces.¹³ Only 5 of the 30 members of the Cabinet of the de facto Taliban authorities belong to ethnic groups other than Pashtun (two Tajiks, two Uzbeks and one Nuristani).

43. In their meeting with the Special Rapporteur during his visit in October, representatives of minority groups noted that they felt “fully isolated from any decision-making process” and witnessed a “clear trend towards Pashtunization”. Furthermore, tensions with regard to language use have heightened lately, including because the Taliban have been replacing Farsi signs with Pashto signs in predominantly Farsi-speaking cities such as Herat and Mazar-i-Sharif.

44. The Special Rapporteur recalls the Declaration on the Rights of Persons Belonging to National or Ethnic, Religious and Linguistic Minorities adopted by the General Assembly in 1992 and the responsibility of the de facto authorities to respect the right of persons belonging to minorities to full and effective participation in cultural, religious, social, economic and public life as well as decision-making at the national and regional levels.

3. Forced evictions

45. Forced eviction is a human rights violation under international law. Defined as the removal of people, families or communities from their homes or land against their will without adequate legal or other protection, international law obliges States to provide some level of tenure security and legal protection from harassment and forced eviction.

46. Since August 2021, there have been worrying reports over a pattern of forced evictions and land grabbing based on ethnicity or political association. Conflict over pasture and cultivable land, which has been a traditional source of tension between settled and nomadic land users, has fuelled ethnic and territorial disputes for decades. In particular, there have been conflicts annually between Kuchi nomadic groups and settlers in rural communities, particularly in the central provinces, over access to grazing land. Often accompanied by ethnic tension, some of these conflicts have resulted in the loss of lives and damage to properties on both sides.

47. Since the Taliban takeover, such tensions have intensified in Parwan, Jowzjan, Badakhshan, Ghazni, Maidan Wardak and Daikundi Provinces. With support from the Taliban, the Kuchi and other powerful groups have used force to take land, leading to armed conflict with locals in some areas. Reports indicate that around 1,000 families have been forcibly removed from their lands and displaced from several villages in Daikundi Province since September 2021.¹⁴ Reports from Panjshir echo similar concerns. Ethnic minorities confirmed this alarming trend in meetings with the Special Rapporteur in October and on other occasions, noting that the practice is far more widespread than has been reported.

48. In other situations, reports indicate that forces associated with the de facto authorities have ordered many Hazaras and other locals to leave their homes and farms, frequently with only a few days’ notice and without giving them the chance to assert their legal rights to the property.¹⁵ At least 2,800 Hazara residents were forcibly displaced from 15 villages in Daikundi and Uruzgan Provinces in September 2021 alone. When representatives of the communities demanded an investigation, they were arrested.¹⁶ On 19 December 2022, residents of Sar-e-Pol Province staged a protest against their forced eviction and the seizure of 6,000 jerib of land in eight villages by the Taliban. Residents, who are mostly Uzbeks and Tajiks, were reportedly threatened with a military response if they did not follow orders.

49. In their response to the present report, the de facto authorities reported that in October 2022, based on a decree by their Supreme Leader, a regulation was issued to prevent land

¹² Afghanistan Human Rights and Democracy Organization (AHRDO), “Brutal Deadlines: Forced Displacement and Land Occupation under the Taliban”, June 2022.

¹³ See <https://www.etailatroz.com/156996/>.

¹⁴ AHRDO, “Brutal Deadlines: Forced Displacement and Land Occupation under the Taliban”, June 2022.

¹⁵ See <https://www.hrw.org/news/2021/10/22/afghanistan-taliban-forcibly-evict-minority-shia>.

¹⁶ Ibid.

grabbing and that subsequently a commission and a special court were established to implement the decree.

D. Rule of law

50. There are continuing serious challenges to the rule of law in Afghanistan, with the introduction of irregular procedures, lack of clear legal authorities and the nullification of past laws. The Special Rapporteur notes that the absence of any codified law is one of the most serious concerns, while the de facto authorities reiterate that they follow sharia law (Hanafi school), it is subject to a range of interpretations. Even in legal systems rooted in sharia law, such as those in Egypt, Pakistan and Türkiye, legal codes are followed that provide consistency and predictability in the application of the law. At the present time, there are no standardized procedures or substantive statutes in criminal or civil matters that police, judges or lawyers can follow in Afghanistan.

51. The 2004 Constitution, which guaranteed the separation of powers, the rights of citizens, including the right of access to justice and equality before the law and the independence of the judiciary, remains suspended. Key judicial positions have been filled with religious scholars, mainly members of the Taliban linked to high-ranking officials and active during the war, rather than legal experts. They are advised by muftis (Islamic scholars qualified to issue an opinion on a point of sharia law for specific cases), who are appointed by the Chief Justice. Since September 2022, the de facto authorities have sidelined the role and functioning of prosecutors and they had previously removed most judges systematically. Often, the judge is the investigator and adjudicator, which violates compliance with fair trial standards. In practice, it appears that the muftis have become even more powerful, being involved in pretrial and trial processes, including investigations and the provision of advice on punishment, with judges mainly following their advice. Alarming, there are reports that it is common for alleged perpetrators to be detained, sentenced and punished by the police and other security agencies all on the same day, without any semblance of due process or judicial review. There have also been allegations of bribes.

52. Access by women to the courts continues to be severely restricted. Women generally need to be accompanied by a man, and testimony by a woman may not be allowed or may be given less weight than that by a man. Female judges and those belonging to religious minority groups, mainly Shia Muslims, have been removed. Male defence lawyers have gradually resumed their functions, with oversight from the de facto Ministry of Justice. As of November 2022, 1,275 of 1,332 male lawyers who sought renewed licences had them granted after undertaking an assessment based on religious knowledge.¹⁷ Women continue to be excluded from the process.

53. The de facto authorities have dissolved the specialized courts for women and have removed all women judges, which has adversely affected women's access to justice. Very few women defence lawyers are still working in the court system. Women's lack of access to legal advice, combined with a general lack of awareness of how to defend their rights, continues to undermine accountability for violence, including domestic violence. The Special Rapporteur notes that there is no consistent countrywide approach on access to defence counsel and that lawyers rarely visit juvenile detention due to a lack of resources.

54. On 13 November 2022, the Supreme Leader ordered the judiciary to implement *hudud* and *qisas* punishments. Corporal punishment constitutes treatment that is contrary to universally recognized norms, which prohibit torture and other degrading, cruel and inhuman treatment or punishment. Between 18 November 2022 and 15 January 2023, the authorities have reportedly carried out floggings of over 180 individuals (men, women and children) in public in several provinces. All individuals were given between 20 and 100 lashes for alleged crimes, including theft, illegitimate relationships or violating codes of social behaviour. On 7 December 2022, the Taliban publicly executed a man in the city of Farah in what appears to be the first public execution since it seized power in August 2021. Senior officials of the de facto authorities, including the Deputy Prime Minister and Chief Justice, were in

¹⁷ See [A/77/636-S/2022/916](#).

attendance. In their response to the present report, the authorities stressed that *hudud* and *qisas* punishments are provided for in sharia law and have been effective in deterring crimes.

55. Increasingly, lack of a well-functioning legal system, combined with confusion over the applicability of laws and lack of clarity on the role and duties of legal bodies, have forced people to rely on informal and traditional dispute-resolution mechanisms such as *jirgas*, gatherings of elders, community and religious leaders, which lack legal knowledge and often fail to respect the rights of women, children and minorities. In their response to the present report, the de facto authorities noted that historically *jirgas* are considered to be the most effective dispute-resolution mechanism. They noted the significant role that religious scholars, members of the Ulema Council, have been playing in resolving disputes and that parties who are not satisfied can refer the matter to the courts. They did not, however, address the discriminatory impact of such judgments.

56. The authorities informed the Special Rapporteur that they have established two committees, comprising members of the Ulema Council and legal experts, to review existing laws and regulations and to ascertain their compliance with Islamic law. The authorities informed the Special Rapporteur that 95 per cent of the laws have been reviewed, of which only 5 per cent were found to be incompatible with sharia. Parts of the Penal Code of 2017 and the law on the elimination of violence against women are apparently considered contrary to sharia. The Special Rapporteur fears that the absence of representative legislative bodies and lack of involvement of civil society will lead to laws that do not meet the needs of the people and will be in conflict with international legal standards. He therefore calls upon the authorities to improve future review processes and to adopt procedures that guarantee transparency and the systematic engagement of civil society, including women and marginalized groups, with a view to bringing domestic legislation into conformity with international human rights law.

57. The Special Rapporteur has long been aware of the climate of impunity and the continued failure to hold officials and commanders accountable for serious violations of international human rights and humanitarian law, a trend that preceded the Taliban regime and that has continued. He is concerned, for example, that despite numerous reports of extrajudicial killings of former members of the Afghan National Defence and Security Forces, contrary to the declared amnesty, these allegations have not been properly investigated, nor is there evidence that any perpetrators have been brought to justice. Lack of judicial accountability reinforces impunity and could lead to the commission of further serious crimes. He is also concerned that persons making allegations against the authorities may not be protected from reprisals. This discourages reporting and creates a serious impediment to accountability. He stresses the imperative for an end to impunity, redress for past crimes and immediate reforms, in conformity with the rule of law.

58. While recognizing the important role that the international community can play to ensure justice for victims in Afghanistan, justice must be considered in a broad sense in order to address the country's past in the light of the principles of justice, truth, reparations and guarantees of non-recurrence. While accountability necessarily involves criminal justice, non-punitive measures are also important. All parties to the conflict in Afghanistan should recognize and take responsibility for what has happened in the past since denial and avoidance will only serve to encourage ongoing systematic violations.

59. In this context, the Special Rapporteur welcomes the decision adopted on 31 October 2022 by Pre-Trial Chamber II of the International Criminal Court, authorizing the Prosecutor to resume the investigation of international crimes that have been perpetrated since 1 May 2003 in Afghanistan, and since 1 July 2002 related to Afghanistan in other jurisdictions. He encourages the Court to take note of the unprecedented deterioration of women's rights since the investigation was paused and suggests that the Prosecutor consider the crime of gender persecution. He trusts that the Court will investigate international crimes by all parties to the conflict in Afghanistan. He also welcomes the recent court ruling by a court in the Netherlands on 23 November 2022 that ordered the Netherlands to pay financial compensation to the victims of the 2007 bombing by Dutch military forces in Uruzgan Province and encourages other States to initiate domestic accountability mechanisms for alleged human rights violations during the 20-year conflict dating from 2001. He also calls upon the international community to keep victims at the centre of efforts for justice and

accountability and to provide them with assistance and support, including through reparations, the restitution of property and guarantees of non-repetition.

60. In January 2022, the Supreme Leader issued a code of conduct on reform of the prison system that prohibits “bad treatment” of people throughout their arrest, transfer or detention and provides punishment for those who commit torture. The decree also limits the initial detention of individuals by de facto security officials (Police and the General Directorate of Intelligence) to three days (consistent with the Penal Code of 2017 and international standards), after which suspects should be handed over to a court. In criminal cases that warrant additional investigation, security officials can detain suspects for a month or longer, with a court order. In the absence of a reliable judicial system, this provision could lead to risks of abuse. While noting that the decree on the treatment of detainees appears to be positive, the Special Rapporteur is concerned about failures to respect it. There are reports of suspects being held in detention for months, where they were subjected to ill-treatment without a fair trial and due process. Senior de facto officials informed the Special Rapporteur that the Supreme Leader has recently issued instructions, in person, to the representatives of the General Directorate of Intelligence, ordering them not to arrest anyone unlawfully and to treat detainees well.

61. During his visit in October, the Special Rapporteur was told that the prison population has been capped at 10,000 and there are signs of a more professional approach to prison administration. In December 2022, the prison population stood at approximately 12,000 according to the de facto authorities.

62. The Special Rapporteur also visited Pul-e-Charkhi and Bamyán prisons during his visit. He observed that detainees and prisoners had some access to medical care and nutritious food, although there was insufficient heating, water and sanitation. Detainees had regular family visits but were unaware of their rights to a defence lawyer. Children, including infants, remained incarcerated with adults, with some being held for weeks or months. Most female detainees he spoke with were held on accusations of “immoral conduct” and had not been presented before a court.

63. The Special Rapporteur calls upon the authorities to expedite judicial proceedings of the above cases and to afford detainees and prisoners their due process rights, including access to defence counsel, welcomes the access to prisons given to him, UNAMA and the International Committee of the Red Cross and urges the authorities to extend such access to all places of detention, including those maintained by the General Directorate of Intelligence. He encourages donor communities to address prison conditions that affect the administration’s ability to maintain the United Nations Standard Minimum Rules for the Treatment of Prisoners (the Nelson Mandela Rules).

E. Shrinking civic space

1. Civic space, human rights defenders and the right to freedom of association

64. The Special Rapporteur remains deeply concerned about the rapidly shrinking civic space, with human rights defenders, civil society organizations and journalists all facing tremendous pressure. He observes that there has been some regression in this area since his visit in May 2022. One human rights activist described the current landscape as follows: “we can no longer breathe, if you speak about civic space, rights and responsibilities, you risk your life”. Members of civil society reported that the de facto authorities have increased limitations and surveillance of their activities and that human rights defenders had been subjected to intimidation, including by phone calls, visits to their homes, physical and verbal attacks and arbitrary arrest, which have created a climate of fear and sense of desperation. The Special Rapporteur is concerned about the safety and protection of human rights defenders who have been changing locations on a regular basis owing to fear of and threats from the Taliban. The authorities have also raided the premises of several civil society organizations and demanded the names and contact details of the staff and associated individuals, sometimes including family members. They are increasingly using bureaucratic mechanisms to control civil society organizations. Their requests are incoherent, inconsistent and difficult to interpret. Disclosure requirements have been noted as a major obstacle for

several civil society organizations which are required to re-register at the de facto Ministry of Economy.

65. Female human rights defenders are at particularly high risk of harassment. They face constant pressure from the Taliban, increasingly unsafe work environments, movement limitations, as well as additional expenses associated with the *mahram* requirement. The Special Rapporteur has received information about reprisal attacks against human rights defenders.

66. During the mission of the Special Rapporteur, representatives of the United Nations, international NGOs and civil society organizations expressed concern about the harassment of their national female staff by the authorities, including the arrest of three Afghan women working for the United Nations. The women were released after some hours of interrogation. Data shows that there has been a substantial increase in the number of arrests of humanitarian workers from 3 cases in 2020 to 76 cases in 2022 (as of October). The Special Rapporteur calls for an immediate halt to all acts of intimidation and harassment of staff working for national and international organizations.¹⁸

2. Freedom of assembly

67. The Special Rapporteur is alarmed by the restrictive policies of the Taliban with regard to the right to peaceful assembly and its use of arbitrary arrest and detention of demonstrators, including their abusive interrogation, denial of access to lawyers and other due process rights and coerced confessions. The authorities have banned protests, and in more than half of the 20 peaceful protests have resorted to excessive use of force to disperse protesters, including warning shots and beatings. The Special Rapporteur has received first-hand information from protesters, often women, who have been subjected to threats, intimidation, arrest and ill-treatment while in detention. On 12 December 2022, Zarifa Yaqubi, an activist, was released after spending 40 days in detention. Ms. Yaqubi was arrested together with her four male colleagues on 3 November during a press conference. They were detained incommunicado without contact with their families or a lawyer. The authorities have not brought charges against Ms. Yaqubi. Moreover, at the time of drafting of the present report, a number of activists remained in detention. The Special Rapporteur reminds the authorities that arresting people for exercising their fundamental freedoms and rights is unlawful and constitutes arbitrary detention. Nevertheless, even in the current situation, civil society actors continue to undertake their work bravely, including working through others, for example by engaging with elders and religious leaders in the provinces, especially to promote education for girls.

3. Freedom of expression and the press

68. Despite repeated assurances from the authorities that they respect and promote press freedom, the Afghan media landscape and press freedoms have further deteriorated. As noted by one journalist: “There are a lot of restrictions, the Taliban want to review the texts before they are broadcast and published. Although our media has so far resisted this demand, we do not know how long we can manage it, and we have to self-censor extensively or we will be harmed.”

69. Journalists have increasingly been subject to surveillance, intimidation, threats, violence, arrest and detention. Since August 2021, 245 cases of violations against media freedom have been registered, including 130 cases of detention (ranging from few hours to months), physical violence, ill-treatment and torture.¹⁹ In August 2022, the authorities reinstated the Media Complaints and Rights Violations Commission. Even if seen as a step in the right direction, the Special Rapporteur has serious concerns about its independence, reach and composition, in particular after the announcement by the de facto deputy Minister of Information and Culture that there is no need for women to be represented on the commission.

¹⁸ See <https://unama.unmissions.org/un-afghanistan-calls-end-harassment-its-afghan-female-workforce>.

¹⁹ See <https://afjc.media/english/events/press-release/afjc-records-245-cases-of-media-violation-during-the-first-year-of-taliban-rule-in-afghanistan>.

70. During his visit, journalists and other media professionals informed the Special Rapporteur about the challenges they face while performing their duties. Intelligence officials routinely visit the homes and offices of media workers, send messages threatening to revoke their licences and arrest them if they produce content critical of the Taliban leadership. In discussions with the Special Rapporteur, de facto officials claimed that they were either investigating or would investigate human rights violations against media professionals. In November, another committee was established within the Ministry of Information, aimed at facilitating discussions with journalists and media on their key challenges and concerns.

71. The authorities have issued several decrees and regulations to restrict and suppress press freedom in the country, including diminishing the role of women in the media sector. These include the promulgation of “11 journalism rules”, comprising decrees that ban criticism of government officials without proof, spreading false news and rumours and dissuading the media to avoid interviewing individuals who are critical of the authorities.²⁰ These rules, combined with systematic human rights violations against journalists and media outlets, have severely curtailed media freedom.

72. It is estimated that around 40 per cent of media outlets have ceased to operate and that 60 per cent of journalists have lost their jobs since August 2021.²¹ As noted in the previous report of the Special Rapporteur, over 80 per cent of women journalists have lost their jobs in the radio sector and many radio stations and television channels have ceased operating.²² The media landscape is now largely devoid of women journalists, even in Kabul. One female journalist noted that, for fear of reprisals, she worked under a pseudonym: “It has been my dream to work as a journalist since I was very young. Many of my female journalist friends have stopped their jobs, as they and their families are too scared. However, I will continue. A free and open media has never been more important than now”.

73. In addition to banning the television channels of the British Broadcasting Corporation and Deutsche Welle in March 2022, on 1 December the de facto authorities blocked the FM broadcasts of Radio Azadi and the Voice of America, alleging that the broadcasts had breached national press laws.²³ In October, two Afghan news websites, Hasht-e-Subh and Zawia News,²⁴ were suspended by the authorities. Several news agencies are reported to be under threat of revocation of their licences, allegedly for critical reports about the Taliban leadership or for news content perceived to be in conflict with “Islamic values” or the “national interest”. Foreign journalists have also been subjected to harassment and intimidation, warned that their visas will be cancelled and told that they will be barred from entry to Afghanistan if they publish stories that the Taliban consider untrue.

F. Conflict-related violence

74. The Special Rapporteur remains concerned about the ongoing clashes between de facto security forces and armed opposition groups in Panjshir and other provinces. These clashes continue to result in violations of international humanitarian and human rights law. He has received credible reports and documents regarding extrajudicial executions of captured fighters, torture, arbitrary arrest and disappearance of individuals perceived to be affiliated with the National Resistance Front, the heavy suppression of communities and an information blackout. Civilians considered by the Taliban to be associated with the National Resistance Front continue to be routinely subjected to house-to-house searches, arbitrary arrest and detention, extrajudicial killings, torture and displacement.

²⁰ AHRDO, “Afghan media under the Taliban, restrictions and violations” September 2022.

²¹ See <https://rsf.org/en/afghanistan-has-lost-almost-60-its-journalists-fall-kabul>.

²² See <https://www.unesco.org/en/articles/afghanistan-unesco-and-european-union-join-forces-support-media-resilience#:~:text=UNESCO%20and%20the%20European%20Union%20are%20joining%20forces%20to%20support,to%20information%20for%20Afghan%20citizens>.

²³ See <https://www.voanews.com/a/taliban-defend-ban-on-voa-rfe-rl-broadcasts-in-afghanistan/6857676.html>.

²⁴ See <https://rsf.org/en/taliban-have-entered-new-phase-their-media-war-closure-two-major-afghan-news-websites>.

75. Conflict has also adversely affected the delivery of essential services, notably access to education, livelihoods and medical care. For instance, of the 129 schools in Panjshir Province, 24 have been partly occupied by the authorities since July 2022. Movement restrictions and the curfew imposed at night have affected livestock management and agriculture, making it difficult for people to make a living.

76. During his visit to Afghanistan, multiple sources, including residents of Panjshir Province, informed the Special Rapporteur of the deterioration in the situation of human rights in the province. Residents noted that security officials regularly search and confiscate their cell phones and warn them against posting on social media about the situation. Youth are systematically subjected to arbitrary arrest, detention and looting of precious items, such as gold and cash, during house searches by the Taliban. The Special Rapporteur also received reports of child and forced marriages by the Taliban fighters in the Khawak area of the Paryan district. The Governor of Panjshir Province acknowledged to the Special Rapporteur that violations may have taken place, but said that door-to-door searches were only aimed at collecting firearms to protect the public and that they only happened in daylight. He claimed that restrictions on movement were a temporary measure and said authorities had punished soldiers who were involved in beatings of people. The Special Rapporteur was unable to verify these assertions.

77. The Special Rapporteur is alarmed about the alleged killing of fighters “hors de combat”. He has received multiple reports of extrajudicial killings of fighters affiliated with the National Resistance Front, in violation not only of human rights but also humanitarian law. In video footage published in September 2022, Taliban fighters were seen executing members of the Front who were blindfolded with their hands tied behind their backs. In response, the de facto Ministry of Defense announced that it was investigating the reports and would take necessary action against those found responsible. The de facto deputy Prime Minister informed the Special Rapporteur that over 40 members of the National Resistance Front, including four commanders, had been killed and over 100 arrested in recent operations.

78. On 18 October, Afghan Witness, a non-profit organization based in the United Kingdom of Great Britain and Northern Ireland, published a report documenting the death of 27 men captured by the Taliban in Panjshir Province in September 2022, including geolocation and verification of video footage.²⁵ The findings in the report are in line with documents and evidence that the Special Rapporteur has received from multiple sources, confirming a pattern of extrajudicial killings of individuals affiliated with the National Resistance Front. He draws a preliminary conclusion that extrajudicial killings, arbitrary detention, torture and ill-treatment, as well as severe deprivation of liberty, have taken place and he stresses that all parties to the conflict have obligations to respect international humanitarian and human rights law. He calls for a thorough and independent investigation to establish facts and bring perpetrators to justice.

79. As outlined in his first report, the Special Rapporteur remains seriously concerned about the ongoing targeted and revenge killings of members of the former Afghan National Defence and Security Forces. There are also reports of the killing of more than a dozen prosecutors who had been serving with the former government. These killings have been committed despite the general amnesty declared by the Supreme Leader in 2021. The Special Rapporteur believes that these killings only fuel tensions and animosity within communities and may hamper reconciliation efforts in the future. He renews his call on the de facto authorities to enforce the amnesty and to prosecute individuals involved in the killing and disappearances of former security officers and other officials.

80. The Special Rapporteur is also concerned about the harm caused to civilians during house searches in southern Afghanistan. For instance, on 18 September, de facto security forces killed four women and wounded eight civilians during search operations in Lashkargah, Helmand Province. The deaths and injuries were caused after the de facto forces opened fire on civilians. In a similar instance, on 19 September, a woman and two men were killed during a house search in Kandahar. The Special Rapporteur has received reports regarding ongoing killings of individuals affiliated with the Achakzai tribe by the Taliban in southern

²⁵ See <https://apnews.com/article/afghanistan-pakistan-taliban-dfa12ea77f564db8f056623b0e9cbb03>.

Afghanistan. He notes that under the Islamic Republic of Afghanistan there was also evidence of serious abuses connected with government officials in the Kandahar area for which there has been no accountability, further underscoring the need for justice rather than the perpetuation of violence.

81. Despite the nearly complete control of the Taliban over the country, the security of the civilian population, which appears to be deteriorating, remains of concern. Schools, places of worship, hotels and other civilian locations have continued to come under attack, causing serious harm to civilians. Responsibility for the majority of the attacks, especially those against minorities, has been claimed by ISIL-K.

G. Children

82. Children have been heavily affected by the change in regime, including with the collapse of child protection and social welfare services. The dire economic situation, absence of birth certificates and falsification of *tazkera* (the national identification card), places children at risk of recruitment and makes them vulnerable to sexual and economic exploitation and abuse.

83. The Special Rapporteur has received credible reports about an estimated 1,855 grave violations committed against children between January and September 2022. He has also received reports indicating a significant increase in the recruitment and use of children as soldiers over the past year. There has been a sharp increase in attacks against schools, students and educational personnel, with a monthly average of eight attacks between January and September 2022. There are also reports that authorities are using schools for military purposes. The killing and maiming of children from unexploded ordnance and explosive remnants of war remains a leading cause of casualties among children. There is a need for increased support for locally based mine risk education and related policies.

84. The Special Rapporteur is extremely concerned about the mental and physical well-being of children and adolescents, especially girls, many of whom are in desperate need of mental health support. There is an urgent need to scale up the child protection response for children, including for those who suffer from displacement, and to provide child-friendly spaces and psychosocial support to children and their caregivers or parents.

85. The Special Rapporteur is also gravely concerned about the reports of arbitrary detention of children, including with adults, without due judicial processes. He is further troubled about incidents of rape and other forms of sexual violence (including the abuse of young boys (*bacha bazi*)), which may not be reported due to stigmatization within communities, shame and the high turnover of female humanitarian and support workers.

86. According to the World Health Organization, several thousand children are admitted monthly for emergency medical treatment for acute malnutrition, and many other children in similar situations, especially in remote areas, are reportedly unable to get timely medical treatment. Over 1 million children under age 5 are suffering from prolonged acute malnutrition, with long-term consequences. The Special Rapporteur has been informed of people adopting extreme coping measures, such as selling their organs and their children to pay for food, forcing their children to work or to marry and drugging hungry children to fall asleep. In their response to this report, authorities noted that they have gathered 7,989 boys and 1,736 girls' beggars in Kabul. After their identification, the Ministry of Social Affairs reportedly admitted orphans to orphanages and the Afghan Red Crescent Committee has been providing 2,000 afghanis per month to vulnerable and needy children. They reported that the child protection network meets monthly across the country and that centers have been established to support vulnerable girls, including those trafficked or separated from parents, deported, mentally and physically disabled.

H. Other groups of particular concern

1. Internally displaced persons

87. As of November 2022, Afghanistan had an estimated population of 5.9 million internally displaced persons, 4,027,303 (68 per cent) of whom were displaced by conflict and violence and 1,866,847 (32 per cent) by natural disasters. In recent years, long-term settlements of internally displaced persons have been a feature of major urban centres, including Kabul, Helmand and Herat, with an average of 380,000 additional internally displaced persons recorded annually prior to August 2021. After the Taliban takeover, the number of conflict-related internally displaced persons fell significantly, with 25,000 recorded movements between August and December 2021 and 7,400 as of June 2022. The International Organization of Migration estimates that nearly 800,000 people have returned to Kunduz, Nangarhar and Baghlan Provinces between August 2021 to April 2022. However, localized conflict in places like Panjshir and Baghlan Provinces has forced many families to leave their homes over the past few months. Between January and June 2022, natural disasters constituted the main trigger for the displacement of 124,000 people.²⁶ Poverty and lack of employment are also contributing factors to internal displacement. While the Special Rapporteur welcomes the reduction in the number of conflict-related internally displaced persons, he remains concerned about the fate of millions of Afghans in informal settlements, and in particular about eviction threats by the de facto authorities. On 15 December 2022, the Norwegian Refugee Council reported that 20,000 displaced people had been evicted from their makeshift settlements in Badghis Province by the de facto authorities in the middle of winter.²⁷ The Special Rapporteur calls upon the de facto authorities to immediately stop such evictions from makeshift camps and to cooperate with relevant actors to find a sustainable solution.

2. Sexual orientation and gender identity

88. The Special Rapporteur remains deeply concerned about the violence and discrimination faced by LGBTQ+ persons in Afghanistan, some of whom he has met.²⁸ He continues to receive reports of LGBTQ+ Afghans living in constant fear and it has been reported that gay men have been beaten, arrested, raped, detained and in some cases killed by Taliban officials. On 24 August 2022, the de facto Minister of Public Health declared sex reassignment surgeries forbidden (*haram*). Gender non-conforming Afghans face extreme challenges in obtaining access to humanitarian assistance and official documents, such as passports, restricting their ability to seek safe havens.

3. Persons with disabilities

89. Noting the high number of persons with disabilities in Afghanistan, the Special Rapporteur is concerned about the gaps in the legal protections of their rights and the lack of assistance provided for them, which has further diminished since August 2021. Most of the entities supporting persons with disabilities have closed down or have reduced their services owing to the economic crisis and restrictions imposed on their workers, mostly women. Moreover, assistive devices for persons with visual or hearing impairments are in short supply and persons with psychosocial or intellectual disabilities receive little or no assistance. If they served with the Islamic Republic, veterans with disabilities cannot access their benefits for fear of retaliation. Women and girls with disabilities face multiple forms of discrimination, including risks of early marriage and mental health challenges.

²⁶ See <https://www.internal-displacement.org/expert-opinion/one-year-on-the-taliban-takeover-and-afghanistans-changing-displacement-crisis>.

²⁷ See <https://www.nrc.no/news/2022/december/afghanistan-20000-displaced-people-evicted-from-makeshift-camps-in-freezing-temperatures/>.

²⁸ See <https://gandhara.rferl.org/a/torture-murder-gay-afghan-men-lgbt-taliban/32119338.html>.

IV. Recommendations

90. The Special Rapporteur reiterates the recommendations outlined in his initial report.

91. The Special Rapporteur recommends that the de facto authorities:

(a) End conduct tantamount to gender persecution, recognize the equality of women and men, girls and boys and restore all fundamental human rights without discrimination, in line with international human rights instruments ratified by Afghanistan;

(b) Immediately restore equal access to quality education at all levels and in all courses for women and girls;

(c) Ensure that women are represented in the judiciary, government leadership and commissions, reinstate the specialized courts, police and support units for violence against women, support shelters for women and children fleeing from violence and immediately restore the right of women to work in NGOs and other organizations;

(d) Make every effort to address the ongoing economic crisis and to obtain international assistance and cooperation, with a view to fully fulfilling the country's human rights obligations, particularly under the International Covenant on Economic, Social and Cultural Rights, including by:

(i) Taking measures to meet the requirements for releasing frozen assets and restoring the frozen banking system;

(ii) Refraining from interfering in humanitarian operations and ensuring the safety, security and unhindered access to humanitarian work, particularly for female staff, whose participation is essential;

(e) Match statements on inclusiveness and non-discrimination towards persons belonging to ethnic and religious minority groups with practical actions, including by:

(i) Immediately abolishing laws, policies and practices that discriminate against persons belonging to ethnic and religious minority groups;

(ii) Prohibiting and preventing discrimination and violence, including the forced eviction of minorities, and providing security in places of worship and educational institutions;

(iii) Ensuring their representation in all decision-making processes affecting their lives;

(iv) Investigating attacks against ethnic and religious minorities and holding those responsible to account, in accordance with international standards;

(f) Immediately establish a moratorium on the death penalty, corporal and other physical punishments that constitute torture or other cruel, inhuman or degrading treatment or punishment;

(g) Enable women's access to justice by restoring the law on the elimination of violence against women, reinstating female judges and enabling the re-registration of female defence lawyers;

(h) Afford all detainees their due process rights, including access to defence counsel, and expedite their cases in accordance with international standards;

(i) Immediately and unconditionally release all individuals who have been arrested for exercising their rights to freedom of expression, association and peaceful assembly;

(j) Support a free and independent media and provide an enabling environment for journalists and media workers to exercise their legitimate rights

without fear, in line with international human rights standards on freedom of expression;

(k) Restructure the Media Complaints and Rights Violations Commission so that it is independent and effective, with a diverse membership, including a majority of representatives from the Afghan media, particularly women;

(l) Seek support for mine clearance and awareness-raising activities posed by unexploded ordnance to ensure that all civilians, especially children, are not harmed by explosive remnants of war.

92. The Special Rapporteur recommends that the international community and Member States:

(a) Ensure that the situation in Afghanistan is central to foreign policy, bearing in mind their responsibilities for the human rights and well-being of the population and the regional and global implications of failing to protect human rights in Afghanistan, especially those of women and girls and minorities;

(b) Continue to insist with the de facto authorities that equality for women and girls, in line with international human rights treaties ratified by Afghanistan, is essential for international cooperation and the future of the country, firstly by the reopening of secondary schools and universities and the reversal of the ban on women's employment by NGOs;

(c) Increase its contribution to the humanitarian response plan and emergency humanitarian funds, with a view to promoting and protecting the human rights of Afghan people, particularly the rights to adequate food and an adequate standard of living, health, work, education and legal protection;

(d) Provide clear guidance on the implementation of humanitarian exemptions, with a view to addressing overcompliance with sanctions by financial institutions;

(e) Ensure a united approach based on human rights and humanitarian principles in engaging with the de facto authorities;

(f) Maintain a commitment to the employment of female Afghan staff and ensure ethnic diversity among staff;

(g) Enhance independent monitoring and evaluation of service delivery and make necessary changes to enhance confidence that aid is being delivered to those most in need on an equitable basis;

(h) Support international investigation and accountability mechanisms and initiate accountability processes in domestic jurisdictions for past and current violations by all parties to the conflict in Afghanistan;

(i) Provide political support and accessible financial support, including through small multi-year grants, to human rights defenders, especially those working for the rights of women and girls, and support Afghan journalists and media advocacy organizations inside and outside the country;

(j) Continue to facilitate the safe resettlement of Afghans at risk in other countries; increase acceptance of Afghan refugees, in line with the recommendation of the Special Rapporteur in his previous report; and provide funding through human rights organizations;

(k) Support mental health services for women, children and men in Afghanistan, as well for exiled Afghans.